

BOARD OF APPEALS

Enid Starr, Co-Chair
Jesse Geller, Co-Chair
Robert De Vries

Town of Brookline

Massachusetts

Town Hall, 1st Floor
333 Washington Street
Brookline, MA 02445-6899
(617) 730-2010 Fax (617) 730-2043

Patrick J. Ward, Clerk

TOWN OF BROOKLINE ZONING BOARD OF APPEALS PUBLIC HEARING

MAY 13, 2010

MINUTES

At 7:02 P.M. the public hearing of the Zoning Board of Appeals was called to order by Chairman Jesse Geller. Zoning Board of Appeals members present were Chairman Jesse Geller, Jonathan Book and Christina Wolf. In addition to the Board, also present were Planner Courtney Synowiec, for the Department of Planning and Community Development, representing the Planning Board, Building Commissioner Michael Shepard, for the Building Department and Town Clerk Patrick J. Ward, as Secretary. The Chair reviewed the procedures for this hearing and noted that the proceedings of this hearing will be audio-taped. Chairman Geller asked the petitioner, Robert Grinberg, if he would waive the reading of the notice of this hearing. Mr. Grinberg so waived the reading.

BOA#2010-000968 – 30 Cramond Road

This is a petition to legalize the keeping of 10-12 hens approximately twenty feet from the side lot line and fifty-seven feet from the street. The petitioner Robert Grinberg, a resident of 30 Cramond Road stated that he and his wife are seeking special permit relief on the setback issue because their chicken coops are only fifty-seven feet from the street rather than the required one hundred feet. He noted that the coops are well over a hundred feet from every other house in the area. Mr. Grinberg stated that they have had the chickens for more than three years without any complaints. He added that they live in a neighborhood where they wouldn't want such complaints. He stated that the area is screened by a recently installed six foot fence that replaced an older one. He noted that while they have the ability to move the chickens forty feet further from the street, they

have installed cement padding around the new coops to protect the chickens from predators. Mr. Grinberg stated that both the Building Department and the Health Department have inspected the coops and they have received a clean bill of health in the way they keep the hens.

Mr. Grinberg referred to and submitted to the Zoning Board of Appeals a plot plan of his residence and several photos of the property. Zoning Board of Appeals Chairman Jesse Geller accepted these presentations as Exhibits 1 through 4. Exhibit 1 is an aerial overview of the house and lot; Exhibit 2 is a view of the area from Cramond Road; Exhibit 3 is a view of the coops and cement pads from inside the yard; and Exhibit 4 is a copy of the plot plan for 30 Cramond Road.

Mr. Grinberg added that they didn't realize that there was a regulation concerning the placement of the coops. He noted, that had they known, they would have complied. It just didn't dawn on them considering the amount of land and privacy they have at their residence.

Zoning Board of Appeals Chairman Jesse Geller asked Mr. Grinberg what counter-balancing amenities he would be providing under Section 5.43. Mr. Grinberg stated that they would be working with the Planning Department on providing additional landscape to the property.

Zoning Board of Appeals Chairman Jesse Geller asked Mr. Grinberg if there was any noise relative to the raising of the chickens. Mr. Grinberg stated there was no noise that anyone could hear. He noted that up close you certainly could hear them but the neighbors are so far away that nobody could possibly hear them. He added that there are no roosters present on the property.

Zoning Board of Appeals Chairman Jesse Geller asked if there was anyone present who wished to speak in favor of this application. There were none.

Zoning Board of Appeals Chairman Jesse Geller asked if there was anyone present who wished to speak in opposition to this application. There were none.

Planner Courtney Synowiec, for the Department of Planning and Community Development, representing the Planning Board, stated that the Planning Board conducted a joint hearing with the Public Health Department and, therefore, the Health Department's conditions have been attached to the Planning Board's conditions. Ms. Synowiec stated that the Planning Board felt that the chickens were located in such a way to limit their visual and auditory impact on the neighborhood and that it made no sense to move them. Ms. Synowiec added that this petition was brought forward by Mr. Grinberg voluntarily and was not complaint-based. Ms. Synowiec read the Planning Board's conditions into the record:

1. **The relief shall be limited to twelve hens and shall expire five years from the filing date of the Board of Appeals decision unless extended at a Public hearing at the Board of Appeals.**
2. **Within 19 days of the Board of Appeals decision being filed, the petitioner shall submit to the Assistant Director for regulatory Planning, a landscape plan showing additional planting to help ameliorate some neighborhood concern relative to screening.**
3. **The petitioner shall submit to the Building Commissioner, proof of recording of the decision at the Norfolk County Registry of Deeds within 45 days of filing date of the Board of Appeals decision.**

Zoning Board of Appeals Chairman Jesse Geller asked planner Synowiec to also read the recommended conditions of the Health Department into the record. Ms. Synowiec read the following:

1. **Limit of 12 chickens. (no roosters)**
2. **An enclosed pod and pen for chickens must be constructed as outlined in submitted plans. Penned area may be chicken wire. The penned area must be covered over the top. Chickens will be restricted to the pod and enclosed pen at all times.**
3. **Feeding of birds shall occur only in the pod and pen. Manure must be cleaned up regularly and composted in an approved composting environment or otherwise disposed of in a sanitary manner. If disposed of off site department must approve of location.**
4. **Maintain good hygiene practices after contact with chickens.**
5. **Report sick chickens to Brookline Health Department (617-730-2300) and Massachusetts Department of Food and Agriculture Division of Animal Health (617-626-1792) immediately. Report any animal attacks on chickens to Brookline Health Department.**
6. **The pest control management plan must be submitted as a permit condition.**
7. **As part of the Keeping of Animals permit the Health Department will perform routine, unannounced inspections to ensure compliance with these permit conditions.**

Building Commissioner Michael Shepard, for the Building Department, stated that the property is well landscaped and properly maintained. He stated that when he was at the property he didn't even know the chickens were present on the property. He added that the petitioner initially had both ducks and chickens but the ducks are no longer present on the property. He added that hens do not make much noise and because the lots are so large in the neighborhood he can understand how the neighbors didn't even know that the chickens were there. Commissioner Shepard stated the Building Department supports the application but thinks the five year sunset provision isn't necessary since the Health Department will inspect them yearly.

Zoning Board of Appeals Member Jonathan Book asked Planner Synowiec why the planning Board had added the sunset provision as a condition. Ms. Synowiec stated that the Planning Board had added that condition as a preventive measure because they had done something similar in a case on Linden Street and because a neighbor of the applicant had requested it.

Zoning Board of Appeals Member Jonathan Book stated that he was in favor of the relief, subject to all of the conditions, since it is on a large lot and because it meets the requirements of Section 5.43 and Section 9.05.

Zoning Board of Appeals Member Christina Wolf asked if the recommended Public Health Conditions were applicable to everyone who raised chickens. Planner Synowiec stated that she believed they were.

Zoning Board of Appeals Member Christina Wolf stated that she supported the petition and is happy to give up the five year sunset provision since the petitioner is subject health inspections every year.

Zoning Board of Appeals Chairman Jesse Geller stated that he agreed with Board Member Book that the sunset provision it is not a significant hardship. He added that by putting a time limit of five years on the special permit he suspects that if the applicant comes back in five years and the neighbors may give it up if they do not have any issues concerning the keeping of the chickens.

Zoning Board of Appeals Chairman Jesse Geller that the relief sought under Section 5.43 is based upon the counter-balancing amenity of additional landscaping and, under Section 9.05, given the limitation of the number of hens, it is an appropriate location, the use will not adversely affect the neighborhood since there is virtually no noise, that there is no serious hazard to vehicles or pedestrians, and adequate and appropriate facilities have been provided and adequate and affordable housing is not an issue in this instance.

Zoning Board of Appeals Chairman Jesse Geller stated that the recommended conditions by the Planning Board should make reference to the Public Health conditions. Chairman Geller stated that Condition 3 should be renumbered Condition 4 and a new

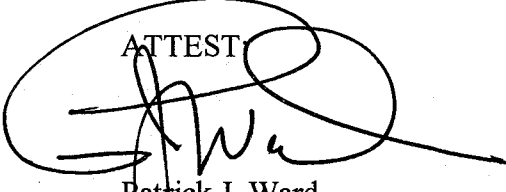
Condition 3 should incorporate by reference the Department of Public Health's Conditions 1 through 7.

Upon motion made and duly seconded, it was UNANIMOUSLY

VOTED: To approve a special permit, under Section 5.43, for 30 Cramond Road, Board of Appeals Case #2010-000968, subject to the following conditions:

1. **The relief shall be limited to twelve hens and shall expire five years from the filing date of the Board of Appeals decision unless extended at a Public hearing at the Board of Appeals.**
2. **Within 19 days of the Board of Appeals decision being filed, the petitioner shall submit to the Assistant Director for regulatory Planning, a landscape plan showing additional planting to help ameliorate some neighborhood concern relative to screening.**
3. **To incorporate by reference the proposed conditions 1 through 7 by the Department of Public Health for 30 Cramond Road.**
4. **The petitioner shall submit to the Building Commissioner, proof of recording of the decision at the Norfolk County Registry of Deeds within 45 days of filing date of the Board of Appeals decision.**

The public hearing was adjourned at 7:30 PM.

ATTEST

Patrick J. Ward
Secretary